

BOARD OF COUNTY COMMISSIONERS, UTAH COUNTY, UTAH
MINUTES OF PUBLIC MEETING
COMMISSION CHAMBERS, ROOM 1400
OF THE UTAH COUNTY ADMINISTRATION BUILDING
May 31, 2016 - 9:00 A.M.

PRESENT: COMMISSIONER LARRY A. ELLERTSON, CHAIR
COMMISSIONER WILLIAM C. LEE, VICE-CHAIR
COMMISSIONER GREG GRAVES

ALSO PRESENT:

David Shawcroft, Chief Deputy Attorney
Robert J. Moore, Utah County Deputy Attorney
Dianne Orcutt, Utah County Deputy Attorney
Paul Jones, Utah County Deputy Attorney
Carl Hollan, Utah County Deputy Attorney
Michelle Araujo, Commission Office
Lisa K. Nielson, Commission Office
Bryan E. Thompson, County Clerk/Auditor
Kris Poulson, Utah County Assessor
Burt Garfield, Assessor's Office
Bryce Armstrong, Community Development
Peggy Kelsey, Community Development
Brandon Larsen, Community Development
Ralph Clegg, Health Department Exec. Director
Patty Cross, Utah County Health Department

Lana Jensen, Utah County Personnel Director
Richard Nielson, Utah County Public Works Director
Andrea Allen, Utah County Recorder's Office
Dalene Higgins, Utah County Sheriff's Office
Lt. Yvette M. Rice, Utah County Sheriff's Office
Mike Forshee, Utah County Sheriff's Office
Gary Ratcliffe, Utah County Surveyor
Jeanne Bowen, Utah County Treasurer's Office
Autumn Jones, Children's Justice Center
Kim Martin, U.S. Dept. of Agriculture Forest Service
Paul Warner, America's Freedom Festival
Phillip Hinckley, Provo Resident
Tom Sakievich, Spanish Fork Resident
Tim Torkildson, Provo Resident
Mike Stansfield, Fairways Media
Renée Caron, Clerk/Auditor Administrative Assistant

Commissioner Ellertson called the meeting to order at 9:09 A.M. and welcomed those present. The following matters were discussed:

PRAYER/READING/THOUGHT: Paul Warner, America's Freedom Festival
PLEDGE OF ALLEGIANCE: Greg Graves, Utah County Commissioner

(Track A, 01:58)

Commissioner Ellertson took a moment of personal privilege to express gratitude for the audience's recitation of the Pledge of Allegiance.

CONSENT AGENDA

(Track A, 02:42)

1. **TAKE ACTION TO REFER THE KAY AGRICULTURAL PROTECTION AREA APPLICATION, 111.038 ACRES, TO THE UTAH COUNTY PLANNING COMMISSION AND THE UTAH COUNTY AGRICULTURAL ADVISORY BOARD; LOCATED IN SECTIONS 2 & 3, TOWNSHIP 10 SOUTH, RANGE 1 EAST, SLB&M, IN THE SANTAQUIN AREA OF UNINCORPORATED UTAH COUNTY**

2. **APPROVE AND AUTHORIZE THE COMMISSION CHAIR TO SIGN AN AGREEMENT WITH ACCESS WALLPAPER & BLINDS TO PROVIDE SOUNDPROOFING IN INTERVIEW ROOMS FOR THE UTAH COUNTY CHILDREN'S JUSTICE CENTER**

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3. **APPROVE OR DENY A REQUEST FROM SAM'S CLUB TO WAIVE THE REQUIREMENTS OF SECTION 1.6.A OF THE UTAH COUNTY FACILITY USE POLICY AND ALLOW THEM TO CONDUCT MARKETING IN THE LOBBIES OF THE ADMINISTRATION BUILDING, HEALTH AND JUSTICE BUILDING AND THE PUBLIC WORKS BUILDING ON JUNE 22, 2016**

The Board requested Consent Agenda Item No. 3 be moved to the Regular Agenda for discussion.

PULLED TO REGULAR

4. **APPROVE OR DENY A REAL ESTATE PURCHASE AGREEMENT FOR SALE OF SURPLUS PROPERTY PARCEL NOS. 14:017:0240 AND 14:017:0234 TO JEAN AND JULIE SHOAE, AND IF APPROVED, AUTHORIZE THE PUBLIC WORKS DIRECTOR TO EXECUTE ALL RELATED CLOSING DOCUMENTS**

The Board requested Consent Agenda Item No. 4 be moved to the Regular Agenda for discussion.

PULLED TO REGULAR

5. **APPROVE OR DENY A REAL ESTATE PURCHASE AGREEMENT FOR SALE OF SURPLUS PROPERTY PARCEL NO. 14:017:0265 TO RBAK VENTURES, LLC, AND IF APPROVED, AUTHORIZE THE PUBLIC WORKS DIRECTOR TO EXECUTE ALL RELATED CLOSING DOCUMENTS**

The Board requested Consent Agenda Item No. 5 be moved to the Regular Agenda for discussion.

PULLED TO REGULAR

6. **APPROVE AND AUTHORIZE THE COMMISSION CHAIR TO SIGN THE COMMISSION ON CRIMINAL AND JUVENILE JUSTICE: JUSTICE REINVESTMENT INITIATIVE (JRI) FY2017 COUNTY PERFORMANCE INCENTIVE PROGRAM (CPIP) GRANT APPLICATION**

The Board requested Consent Agenda Item No. 6 be moved to the Regular Agenda for discussion.

PULLED TO REGULAR

7. **DECLARE AS SURPLUS A GLOCK MODEL 19, SERIAL NUMBER WCN922, WITH AN ESTIMATED VALUE OF \$330.00 TO BE PRESENTED TO CHIEF DEPUTY JERRY MONSON FOR SERVING THE UTAH COUNTY SHERIFF'S OFFICE AND THE CITIZENS OF UTAH COUNTY**

8. **ADOPT A RESOLUTION AWARDED COUNTY PERSONAL PROPERTY AS A GIFT TO CHIEF DEPUTY JERRY MONSON IN RECOGNITION OF HIS MERITORIOUS SERVICE TO UTAH COUNTY**

9. **APPROVE PROPERTY TAX ACTIONS CONTAINED IN RECOMMENDATION LETTER NO. 2016-12**

The Board requested Consent Agenda Item No. 9 be moved to the Regular Agenda for discussion.

PULLED TO REGULAR

10. **ADOPT A RESOLUTION APPROVING VOLUNTEERS WHO WISH TO DONATE THEIR SERVICES TO THE UTAH COUNTY HEALTH DEPARTMENT**

11. **RATIFICATION OF PAYROLL FOR PAY PERIOD 11**

12. **RATIFICATION OF WARRANT REGISTER SUMMARY**

Consent Agenda Item Nos. 1, 2, 7, 8, and 10 through 12 were approved as written. Commissioner Ellertson recommended the following Regular Agenda items be moved to Consent:

1. **APPROVE THE MINUTES OF THE MAY 17, 2016 COMMISSION MEETING**

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2. APPROVE THE MINUTES OF THE MAY 24, 2016 COMMISSION MEETING
6. ADOPT (OR DENY) AN ORDINANCE TO AMEND SECTIONS 2-2, 7-15, AND 7-16 RELATED TO HEARING PROCEDURES FOR THE UTAH COUNTY BOARD OF ADJUSTMENT
7. ADOPT (OR DENY) AN ORDINANCE TO AMEND THE UTAH COUNTY LAND USE ORDINANCE, SECTION 3-44 OF THE UTAH COUNTY LAND USE ORDINANCE RELATED TO EXEMPTIONS FROM PLAT REQUIREMENTS
9. APPROVE AND AUTHORIZE THE COMMISSION CHAIR TO SIGN AN AGREEMENT WITH THE UTAH DEPARTMENT OF HEALTH FOR DOMESTIC EBOLA PREVENTION
10. AUTHORIZE THE COMMISSION CHAIR TO SIGN A LETTER OF SUPPORT FOR THE UINTAH/CACHE/WASATCH NATIONAL FOREST FOR A FOREST LANDS ACCESS PROGRAM (FLAP) PROJECT APPLICATION
11. APPROVE AND AUTHORIZE THE COMMISSION CHAIR TO SIGN THE UTAH BUREAU OF CRIMINAL IDENTIFICATION (BCI) RIGHT OF ACCESS PROVIDER CONTRACT

ACTIONS TAKEN

Consent Agenda Item No. 1 was referred to the Planning Commission and Agricultural Advisory Board; No. 2 was **approved and authorized**; Nos. 3 through 6, and 9, were **tabled** for further discussion; No. 7 was **declared** as surplus; Nos. 8 and 10 were **adopted**; and Nos. 11 and 12 were **ratified**. Regular Agenda Item Nos. 1, 2, and 6 were **continued** to the June 7, 2016 meeting of the Board; No. 7 was **adopted**; and Nos. 9, 10, and 11 were **approved and authorized**.

AGREEMENT NOS.: 2016-381, 2016-382, 2016-383, 2016-384 and 2016-385

RESOLUTION NOS.: 2016-40 and 2016-41

ORDINANCE NO.: 2016-16

REGULAR AGENDA

(PULLED FROM CONSENT)

3. APPROVE OR DENY A REQUEST FROM SAM'S CLUB TO WAIVE THE REQUIREMENTS OF SECTION 1.6.A OF THE UTAH COUNTY FACILITY USE POLICY AND ALLOW THEM TO CONDUCT MARKETING IN THE LOBBIES OF THE ADMINISTRATION BUILDING, HEALTH AND JUSTICE BUILDING AND THE PUBLIC WORKS BUILDING ON JUNE 22, 2016

(Track A, 05:40)

Commissioner Lee began to comment on a purchase, and Commissioner Graves pointed out that conversation is regarding Costco rather than Sam's Club. Commissioner Lee indicated his comment was no longer needed.

Commissioner Lee made the motion to approve the request from Sam's Club to waive the requirements of Section 1.6.A of the Utah County Facility Use Policy for marketing as outlined in Consent Agenda Item No. 3. The motion was seconded by Commissioner Graves and carried with the following vote:

AYE: Larry A. Ellertson
William C. Lee
Greg Graves
NAY: None

AGREEMENT NO. 2016-387

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The commissioners chose to address Consent Agenda Item Nos. 4 and 5 in tandem, as they are directly related.
(Track A, 06:22)

(PULLED FROM CONSENT)

4. APPROVE OR DENY A REAL ESTATE PURCHASE AGREEMENT FOR SALE OF SURPLUS PROPERTY PARCEL NOS. 14:017:0240 AND 14:017:0234 TO JEAN AND JULIE SHOAEE, AND IF APPROVED, AUTHORIZE THE PUBLIC WORKS DIRECTOR TO EXECUTE ALL RELATED CLOSING DOCUMENTS

AGREEMENT NO. 2016-388

(PULLED FROM CONSENT)

5. APPROVE OR DENY A REAL ESTATE PURCHASE AGREEMENT FOR SALE OF SURPLUS PROPERTY PARCEL NO. 14:017:0265 TO RBAK VENTURES, LLC, AND IF APPROVED, AUTHORIZE THE PUBLIC WORKS DIRECTOR TO EXECUTE ALL RELATED CLOSING DOCUMENTS

AGREEMENT NO. 2016-389

Commissioner Ellertson asked whether the surplus properties are being sold at appraised or fair market value, and Utah County Public Works Director Richard Nielson confirmed from the audience.

Commissioner Graves made the motion to approve the Real Estate Purchase Agreements with Jean and Julie Shoaee, and RBAK Ventures, LLC, as defined, respectively, in Consent Agenda Item Nos. 4 and 5. The motion was seconded by Commissioner Lee and carried with the following vote:

**AYE: Larry A. Ellertson
William C. Lee
Greg Graves
NAY: None**

(PULLED FROM CONSENT)

6. APPROVE AND AUTHORIZE THE COMMISSION CHAIR TO SIGN THE COMMISSION ON CRIMINAL AND JUVENILE JUSTICE: JUSTICE REINVESTMENT INITIATIVE (JRI) FY2017 COUNTY PERFORMANCE INCENTIVE PROGRAM (CPIP) GRANT APPLICATION

(Track A, 07:05)

Commissioner Ellertson asked whether the county is certain that the funds will be received, and Dalene Higgins of the Utah County Sheriff's Office replied they are 100% certain because it is the same amount as last year. Some of the positions are still open from last year; this is the second year, or continuation of the JRI Grant. Commissioner Graves mentioned that the state has not updated the language on the application since last year's submission.

Commissioner Lee made the motion to sign the Commission on Criminal and Juvenile Justice: Justice Reinvestment Initiative FY2017 County Performance Incentive Program Grant Application as specified in Consent Agenda Item No. 6. The motion was seconded by Commissioner Graves and carried with the following vote:

**AYE: Larry A. Ellertson
William C. Lee
Greg Graves
NAY: None**

AGREEMENT NO. 2016-390

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(PULLED FROM CONSENT)

9. APPROVE PROPERTY TAX ACTIONS CONTAINED IN RECOMMENDATION LETTER NO. 2016-12

(Track A, 09:17)

Commissioner Ellertson noted that he feels badly when the county requires payment and reconciliation from businesses that are no longer operating. Utah County Deputy Attorney Dianne Orcutt explained that in regard to Personal Property Account No. 7128 registered to Carter Construction Company, Inc., the business license is still active. Commissioner Ellertson countered that the business license is still active ‘to try and wind up the business.’ Commissioner Graves summarized the denial is based on the fact that the value was not questioned during the appropriate time frame, and Ms. Orcutt confirmed the company did not file in previous years which led to the values being estimated by the county. Ms. Orcutt added the county is open to arranging a payment plan, which is specified in the Recommendation Letter. Commissioner Lee asked, “just with the Attorney’s Office, and not the Treasurer’s Office?” and Ms. Orcutt replied “yes.” Commissioner Graves questioned whether a separate finding would be needed as the official action on each of the three parcels for abatement or adjustment within the Recommendation Letter. Utah County Civil Division Chief Deputy Attorney David Shawcroft as well as Ms. Orcutt clarified that approval of the Recommendation Letter would serve as appropriate official action.

Commissioner Ellertson commented on the “not insignificant” balance of approximately \$30,000 in taxes due for one of the properties [Personal Property Account No. 7128 registered to Carter Construction Company]. He asked what happened with the interest column for the year 2008. Acknowledging the \$1,380.00 of interest – compared to the other amounts between \$70 and \$700 for prior and subsequent years – Dianne Orcutt stated she was not sure, as she is not the individual who calculates the charges. David Shawcroft volunteered to review that interest rate. Commissioner Ellertson asked him to do so, and asked the Attorney’s Office to also make sure the property owners understand the request is being denied because the value was not questioned in a timely manner. Ms. Orcutt indicated she would do so. She noted the value was estimated in 2008 or 2009, which followed an audit in 2007; the figures should be fairly close. There was some brief commentary between Commissioners Graves and Ellertson and Ms. Orcutt on whether or not the 2007 balance was paid, and Commissioner Ellertson asked Ms. Orcutt to double-check that information. He suggested continuing that item until the information could be gathered, and Commissioner Lee mentioned a 2008 estimate and audit. Ms. Orcutt repeated the 2008 estimate was based on a previous audit.

When Commissioner Graves asked if the Board would be moving forward with approval of the letter with the exception of Personal Property Account No. 7128, Commissioner Ellertson also commented on Parcel Serial No. 21:009:0160 belonging to Mark and Shanna Nelson. Commissioner Graves noted the Recommendation Letter states there is no county error on the Nelson property. Commissioner Ellertson joked that there has never been a county error, and Dianne Orcutt pointed out that a previous letter included adjustments based on corrected information. Commissioner Ellertson summarized that the applicant received a tax notice that showed nothing was due on the account. Ms. Orcutt explained this issue has come up repeatedly in the past, where the county tax notices are printed in a way which mainly displays the amount due for the current year; the property owner must contact the Utah County Treasurer’s Office for any late or outstanding balances.

The commissioners and Dianne Orcutt discussed the appearance of tax notices, with Commissioner Lee asking, “Who would correct that? What would be the correction process?” Commissioner Graves added, “so that we don’t send out statements that say you owe taxes from previous years but your total amount due is zero.” Commissioner Lee questioned whether the current language on the tax notices are based on statute, and Commissioner Graves pointed out, “it doesn’t say for current year – it says if paid by due date. Total amount due is zero dollars if paid by due date.” Commissioner Lee repeated his question about statutory language, and David Shawcroft responded the form of the tax notice can be modified with approval or agreement from the Utah State Tax Commission; there is room for some flexibility.

The commissioners and Dianne Orcutt continued to discuss the way tax notices are printed, with Ms. Orcutt mentioning there have been updates over the years but there is probably still room for improvement. Commissioner Ellertson stated the county has confused the taxpayer, and Commissioner Lee said, “We’re correcting what we’re

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doing, but in the side of trying to help the public understand too, so we don't get caught.... We can make them more aware." Commissioner Ellertson repeated he feels badly about the fact "you've got somebody trying to do it right, and yet we've confused them to the degree that in addition to confusing you, you get to pay us some money." Ms. Orcutt agreed with Commissioner Ellertson but countered that the taxpayer has the responsibility of knowing property taxes are due annually. Commissioner Ellertson reiterated, "they thought they had [paid]." Commissioner Graves countered, "but they didn't, therefore it is owed."

When Commissioner Ellertson suggested the county is being too hard on the applicant, Dianne Orcutt replied she is only being consistent. Commissioner Graves jokingly questioned if there is a way to abolish all taxes and still run the government. Commissioner Ellertson stated it needs to be fair, and Commissioner Graves said he could talk about greenbelt for hours and hours if they want to start the discussion on fair and unfair tax practices.

Commissioner Ellertson noted that on Parcel Serial No. 02:012:0025 registered to Calvary Holdings, LLC, it appears the church is due an 83% exemption. Dianne Orcutt stated she is not sure of the exact percentage, but it was within the eightieth percentile as decided through the Board of Equalization. They further discussed fairness and consistency.

Commissioner Graves made the motion to approve Recommendation Letter No. 2016-12 as discussed in Consent Agenda Item No. 9, with the exception of Personal Property Account No. 7128 registered to Carter Construction Company, and Parcel Serial No. 02:012:0025 registered to Calvary Holdings, LLC, which would both be continued to the next meeting of the Board on June 7, 2016. The motion was seconded by Commissioner Lee and carried with the following vote:

**AYE: Larry A. Ellertson
William C. Lee
Greg Graves
NAY: None**

AGREEMENT NO. 2016-391

REGULAR AGENDA

- 3. ADD ONE FULL-TIME CAREER SERVICE DEPUTY SHERIFF - ENFORCEMENT POSITION, JOB CODE 4016, TO THE SHERIFF ENFORCEMENT - PATROL CONTRACT CITIES DEPARTMENT STAFFING PLAN [ADD JOB CODE 4016 TO SH ENF - PATROL CC]**

(Track A, 22:16)

Commissioner Graves made the motion to add one full-time Career Service Deputy Sheriff – Enforcement position to the Sheriff Enforcement – Patrol Contract Cities Department Staffing Plan as identified in Regular Agenda Item No. 3. The motion was seconded by Commissioner Lee and carried with the following vote:

**AYE: Larry A. Ellertson
William C. Lee
Greg Graves
NAY: None**

APPROVED

- 4. APPROVE A LETTER OF COMMENT TO THE BUREAU OF LAND MANAGEMENT (BLM) REGARDING THE EASTERN LAKE MOUNTAINS TARGET SHOOTING PLAN AMENDMENT**

(Track A, 23:08)

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Commissioner Lee explained he had spoken with a ‘Kevin,’ who let him know today is the last day to submit comment as a cooperative agency for the Eastern Lake Mountains Target Shooting Plan. Commissioner Lee has compiled a draft letter* for the sake of discussion by the Board, as it would be advantageous to have some sort of statement from Utah County regarding the closure of land for target shooting only on the other side of Utah Lake. Commissioner Ellertson acknowledged the Board has had a number of conversations regarding the patent for the ground for the shooting range, and Commissioner Lee repeated today is the final day for public comment on the issue – even for cooperating agencies.

*(*Copies of the original draft by Commissioner Lee, and the final draft approved by the Board following this discussion, are attached to these minutes for reference.)*

Commissioner Ellertson said he is concerned with some of the verbiage in the letter, and Commissioner Graves addressed the first paragraph which states the Utah County Sheriff estimates that between 500 and 700 people participate in target shooting in the area on the weekends. Commissioner Lee stated he obtained a quote directly from the Sheriff and was given permission to include that information in the letter. Commissioner Graves asked what the Board would alternatively suggest as a solution, and Commissioner Lee reviewed three ideas: A) Lift all restrictions; B.) Close what is currently closed; and C.) Close the 3,200 acres as proposed by SITLA [*School and Institutional Trust Lands Administration*].

Commissioner Graves asked whether the Utah County Sheriff’s Office would have a recommendation from the safety and law enforcement side, and Mike Forshee of the Utah County Sheriff’s Office came forward. Mr. Forshee stated the Sheriff’s Office supports the closure of the land, as they are constantly having to respond to calls in the area. He mentioned an instance when a school bus full of children on a field trip was taking [*gun*]fire, reiterating there is a public safety issue in that area. Mr. Forshee explained SITLA can open or close land through legislative action, and has proposed closing the land to target shooting but not other outdoor recreational activities. Commissioner Ellertson commented on the Bureau of Land Management (BLM), and Commissioner Lee replied that BLM has to go through a public process to close lands whereas SITLA handles it internally. This is because SITLA is not public land. Commissioner Ellertson mentioned SITLA intends to work with BLM on this issue.

Mike Forshee explained the SITLA land [*specific sections of SITLA land being discussed today*] is currently fenced and closed to public access, while BLM land is accessible. Commissioner Graves joked that the fence itself has become a shooting target. Mr. Forshee mentioned that there is an incredible amount of waste by people taking items such as televisions out to shoot, and then leaving them there. Commissioner Graves pointed out that solid waste districts and local secondhand stores do not accept certain items, so the public does not know how to dispose of it properly and contributes to this problem. Commissioner Ellertson noted the Utah County Board of Health is looking into ways to educate people and remedy the situation.

Commissioner Lee the first paragraph of the letter: *‘The proposed shooting range is unlikely to satisfy current demand, particularly on the weekends. Utah County Sheriff Jim Tracy estimates that between 500 and 700 people participate in target shooting in the area on the weekends, and the proposed shooting range cannot satisfy that demand.’* He said part of the concern is that even if that target range is fully utilized, cars will be backed up waiting in line for their turn.

Commissioner Ellertson stated he would like to note, and thank the Bureau of Land Management, for their participation while encouraging them to continue to find solutions to meet the public demands. Mike Forshee referred to a map to point out they are currently only discussing an area to the east of the mountain range; there are still thousands of acres being left open. He mentioned the ‘urban corridor’ being the dangerous section, where State Road 68 runs parallel. Commissioner Ellertson added there are other safety issues such as fire hazards, or the protection of historical rock art.

Commissioner Lee read his third point from the proposed letter: *‘The proposed closures could magnify safety concerns by putting all target shooters in closer proximity to one another.’* Commissioner Lee said that though there is more land to the south, he is concerned about the significantly open land between the ‘urban corridor’ and the potential closures. He stated, “We’re talking about the health, safety, and well-being of our citizens now; we’re

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going to be putting target shooters in closer proximity, potentially, because if they don't have to drive further south, why would they drive further south? So they may wind up in Israel Canyon or some other place, and now they're closer in proximity to each other." Commissioner Lee also said that while he is not trying to argue, "we have been touting all along that the current closure has done such a great job; that the fires have gone down, that there hasn't been that many incidents going on.... now we're saying wait a second, that's not good enough."

Commissioner Ellertson expressed his concern that the current letter seems to propose "don't close anything." Commissioner Lee replied that is not the intent. Commissioner Ellertson suggested re-wording the letter to let the BLM know the commissioners appreciate the interagency cooperation, and encourage continually working toward a way to allow shooting while protecting the public and meeting all goals. The Board discussed options for language to best support and communicate Commissioner Lee's 'Option B' of closing the land that is currently closed, while expressing the appreciation and encouraging further work as suggested by Commissioner Ellertson. All three commissioners agreed on a letter that mainly states "We appreciate you working with us, we want you to keep looking at solutions, and for now we support Option B."

Commissioner Graves made the motion to approve the letter of comment to the Bureau of Land Management (BLM) regarding the Eastern Lake Mountains Target Shooting Plan Amendment, with the changes as outlined in Regular Agenda Item No. 4. The motion was seconded by Commissioner Lee, and discussion continued.

Utah County Civil Division Chief Deputy Attorney David Shawcroft asked the commissioners to specify what should be omitted and added to the letter. Commissioner Ellertson suggested leaving out the first paragraph, and Commissioner Lee countered he thinks it is important to include the Sheriff's estimated numbers. Commissioner Graves pointed out the Utah County Sheriff's Office could submit their own public comment as a separate entity, and tasked Mike Forshee with that assignment. Commissioners Ellertson and Lee debated the importance of including the estimated use figures in the letter, and the Board ultimately agreed to delete Paragraphs 3, 4, and 5.

Commissioner Graves clarified his previous motion to approve the letter of comment to the Bureau of Land Management (BLM) regarding the Eastern Lake Mountains Target Shooting Plan Amendment with the following changes: delete paragraphs 3, 4, and 5, and edit paragraphs 1 and 2, as discussed in Regular Agenda Item No. 4.* The motion was seconded by Commissioner Lee and carried with the following vote:

**AYE: Larry A. Ellertson
William C. Lee
Greg Graves
NAY: None**

AGREEMENT NO. 2016-392

**Copies of the original draft by Commissioner Lee, and the final draft approved by the Board following this discussion, are attached to these minutes for reference.*

5. APPROVE AND AUTHORIZE THE COMMISSION CHAIR TO SIGN AN AGREEMENT WITH THANKSGIVING POINT TO HOST THE 2016 COMMISSIONERS' CUP GOLF TOURNAMENT
(Track A, 42:51)

Commissioner Ellertson pointed out that all expenses for the 2016 Commissioners' Cup Golf Tournament are handled by Wasatch Mental Health Services Special Service District, suggesting this agreement should be approved by that entity rather than the Board of Commissioners.

Commissioner Graves made the motion to strike Regular Agenda Item No. 5 from the calendar. The motion was seconded by Commissioner Lee and carried with the following vote:

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**AYE: Larry A. Ellertson
William C. Lee
Greg Graves**
NAY: None

STRICKEN

8. APPROVE (OR DENY) PINE GROVE SUBDIVISION, PLAT “B,” AN AMENDMENT TO LOT 2 OF PINE GROVE SUBDIVISION, PLAT “A,” AMENDED, SUBJECT TO THE CONDITIONS IN THE STAFF REPORT

(Track A, 44:20)

Brandon Larsen of the Utah County Community Development Office explained a building permit application for a home was approved for an applicant [Wayne Patterson] two years ago, and he has since modified the house plans – this leads to a need to amend the plat. This 50-acre lot essentially has a building ‘envelope’ on it for a fire break. The new plat will need to specify the fuel break and an irrigated band of landscaping, and a site plan will be submitted. Mr. Larsen explained it would be at the discretion of the commissioners to allow a 20-foot reduction along the west property line anywhere within the fuel break easement, and approached the bench to review the map with the Board.

Commissioner Graves noted Utah County Fire Marshal Jack Snow has visited the property, and Brandon Larsen confirmed Fire Marshal Snow has written a letter in support of the applicant’s request for the reduction. Commissioner Ellertson expressed concern about fires that could occur within a reduced band of irrigation. Mr. Larsen also mentioned this is in the Urban Wildland Interface, and Commissioner Graves mentioned that fuel breaks are actually being federally assessed because it has been found that fires can jump over 200-foot breaks under the right weather circumstances.

Utah County Fire Marshal Jack Snow came forward to explain he had initially told the applicant’s engineer that he would not approve twenty feet, but the previous Fire Marshal had approved it with no other restrictions on the initial building permit. Wayne Patterson can technically still use the older plans to build the house with the 30-foot irrigated space and additional 20-foot break. The applicant has offered to thin the vegetation there, but it cannot be demanded on the plat since Lehi City owns that section. Commissioner Ellertson asked whether Mr. Patterson could move further into the plat, and Brandon Larsen noted there are fault lines preventing him from moving further to the east.

Fire Marshal Jack Snow said he decided to re-visit the property based on the finding by the prior marshal, and realized the area in question is fairly light fuel and is uphill from the home site. Commissioner Ellertson countered that fires travel upwards, with Commissioner Graves adding that it is light fuel only if it is maintained correctly. Fire Marshal Snow expressed that the natural vegetation keeps it within the light fuel designation, and approached the bench to share photographs of the property with the commissioners. Fire Marshal Snow mentioned that his letter includes an agreement regarding any vegetation within fifty feet of the house, as well as requiring a dedicated 8,000-gallon water line. The commissioners and Fire Marshal Snow talked about the high-volume landscape sprinklers which would also be required. Fire Marshal Snow estimated it would take four and a half hours to run through 8,000 gallons of water in the case of a fire at the structure.

Commissioner Graves asked about the distance between the home and the fire break, and Fire Marshal Snow responded it is a little bit more than fifty feet. Utah County Civil Division Chief Deputy Attorney David Shawcroft noted fire safety is a critical concern. Commissioner Graves questioned why the Board would deny something when the Fire Marshal has approved it, since the Fire Marshal knows more about fires than himself. He mentioned the fire department response time would be less than four and a half hours, and Commissioner Ellertson replied “it’s the unexpected.” Commissioner Graves countered that if the Board only took action on items where nothing unexpected could occur, they would never vote on anything.

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Utah County Fire Marshal Jack Snow mentioned the fire access road has been improved, as well as the defensible space around the house. He noted being somewhat influenced by the fact that the applicant could resort to the previous Fire Marshal's approval of a 20-foot reduction, with no additional requirements. When Commissioner Ellertson expressed it is important to do everything possible for protection, Fire Marshal Snow said the Board could also request a separate study. Utah County Civil Division Chief Deputy Attorney David Shawcroft added that the Board could require the applicant to provide a separate fire-risk study in support of their request. Utah County Community Development's Brandon Larsen clarified the applicant has an active building permit, and these updates would add protections and make the county's position stronger. Mr. Shawcroft summarized that approving the amendment would have enhanced protections over the current permit but would still be an overall risk.

The commissioners continued to discuss the footage, breaks, and water requirements of the current permit compared to the proposed amendment with Brandon Larsen and Utah County Fire Marshal Jack Snow. Commissioner Ellertson asked whether a one-week delay would cause an issue, and Commissioners Graves and Lee both indicated they are ready to move forward with a decision today. Jack Snow said the only additional information that may be useful at this point is a third-party review, and that would take longer than one week to acquire. Commissioner Graves noted the applicant is already in construction; a delay in approval may lead to the house being built without the added protections.

Brandon Larsen explained all natural hazard requirements have been met. The plat has also been amended three times. The original plat in 2004 had a note regarding the existence or non-existence of private trails going through the property, and that same note was included on the second plat. When Mr. Larsen asked the applicant to place the same note on the third plat because it was omitted, the applicant requested it not be included. County staff would like the note included because the Utah County Attorney's Office assisted in drafting the note on the original plat, and Mr. Larsen is not aware of a good reason why it would not be included. Utah County Deputy Attorney Robert J. Moore explained the note was to address claims of public access through the property.

Commissioner Graves mentioned hearing this issue of dedicated trailways on the property as a previous member of the Board of Adjustments. The applicant is proposing stopping the trailways at his property. Commissioner Ellertson talked about the location of the trails, and Utah County Deputy Attorney Robert J. Moore explained there had been a lawsuit filed over claims of trailways but it was eventually dismissed. Commissioner Lee asked why the lawsuit was dismissed, and Mr. Moore said the plaintiffs decided to dismiss it – it was not dismissed because of merit. There was no ruling or court order confirming whether or not the trails exist. Mr. Moore suggested the Board leave the note on the plat since it does not hurt the applicant if there are truly no public access trails; all it does is make prospective buyers aware there may be a trail, which could happen on any property, especially in the canyons.

Commissioner Lee asked whether a lawsuit could still be filed against the applicant if the Board does not include the note on the plat map. Robert Moore said yes; the note was on the original plat and the subsequent amendment, and was partially the reason the prior Commission voted to approve the plat. Mr. Moore mentioned the note was important to the Commission at that time. Commissioner Lee reiterated the plaintiffs did not follow through with the lawsuit, and Commissioner Graves asked what would stop Mr. Patterson (*the applicant*) from fencing his entire property. Mr. Moore replied the only thing that would prevent that is a plaintiff filing a lawsuit and obtaining a court order for a public access easement. Commissioner Graves mentioned [*Utah State*] Senator [*Curt*] Bramble and a law arguing trailways are roads. Mr. Moore explained there are many potential trails that have not been litigated, that may have been used for generations but do not show on county maps. When Mr. Moore said there are people in the community that believe there are trails going through the property, Commissioner Graves asked whether their beliefs override personal property ownership. They discussed how the note would not change anything within the plat as the issue of trails would be worked out through litigation.

Commissioner Ellertson summarized there is fifty feet between the home and the property line. Utah County Community Development's Brandon Larsen confirmed, commenting that the county is not really "giving anything up." Utah County Civil Division Chief Deputy Attorney David Shawcroft explained when the applicant came in for a plat amendment, current requirements placed a higher standard for building because of the previous exception. Mr. Larsen summarized the current amendment would consist of a 20-foot fuel break, a 30-foot irrigated band of

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landscaping, and diminishes the area of where that fuel break can be utilized. There is a very specific half-circle area of where the home can be built.

Commissioner Lee returned to the subject of the trails note. Utah County Deputy Attorney Robert J. Moore confirmed the current plat includes the note. Commissioner Lee asked about the timeline between the lawsuit being filed and then dismissed, and Mr. Moore did not have that information. Mr. Moore repeated the applicant and his attorney are only making a request to remove the note, and are aware of the Attorney's Office recommendation to leave the note on the plat. Commissioner Lee said he is concerned that action has been taken and some of the pressure has been alleviated since the note was originally included on the plat, so he can see the applicant's request as being reasonable. Commissioner Graves added that when Wayne Patterson bought the property from Lehi City, there were no prescriptive easements – the county added that in 2004. Commissioner Graves reiterated Commissioner Lee's questions, asking why the county would continue to add that note if they have already gone through the process and it has worked itself out. Mr. Moore replied there is still pressure, as there was no conclusion because the lawsuit was dismissed. Commissioner Graves speculated the plaintiffs may have dropped the lawsuit because their attorney thought they would lose, and Mr. Moore said he does not think that is the case.

Commissioner Lee asked whether the trails note would be included on the plat if the proposed amendment is approved today, and Brandon Larsen confirmed. Commissioner Graves note the applicant's argument that the only trails on the property are the ones placed there by the property owners after their purchase, therefore the applicant owns the trails. Utah County Deputy Attorney Robert J. Moore pointed out the applicant wanted the county to protect those trails, and the county never took action on that request. Mr. Moore repeated the lawsuit regarding the trails was dismissed without resolution, and Utah County Civil Division Chief Deputy Attorney David Shawcroft re-stated Mr. Moore's earlier comment that adding the note to the plat gives any future owners notice of potential claims on the land.

Utah County Community Development's Brandon Larsen summarized the Utah County Planning Commission has suggested approval of the amendment with the trails note included. He and Robert Moore reviewed the application and the Planning Commission's recommendation, with discussion between the commissioners about trails and claims of ownership from Alpine City and Lehi City.

Commissioner Lee made the motion to approve the Pine Grove Subdivision, Plat "B," an amendment to Lot 2 of Pine Grove Subdivision, Plat "A," Amended, without the trails note to be included on the plat as discussed in Regular Agenda Item No. 8. The motion was seconded by Commissioner Graves, and discussion continued.

(Track A, 1:19:08)

Commissioner Ellertson reminded the Board that they have an obligation and responsibility to the whole public. He said including the note would not hurt the individual applicant, and Commissioner Graves replied that it does not stop the trails to leave it off. Commissioner Lee added the individual still has rights. Commissioner Ellertson responded they are giving away something that was well thought out in the past, expressing the trails note should still be included on the plat. Commissioner Ellertson explained he would be voting "nay" because he is okay with moving forward with the revised plat, but believes the trails note should be included as recommended by staff.

The motion carried with the following vote:

**AYE: William C. Lee
Greg Graves
NAY: Larry A. Ellertson**

AGREEMENT NO. 2016-393

12. APPROVE AND AUTHORIZE THE COMMISSION CHAIR TO EXECUTE AN AGREEMENT WITH TIFFANI MILLER FOR THE MISS UTAH COUNTY PAGEANT

(Track A, 1:21:13)

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Commissioner Ellertson mentioned concerns about transferring from the current budget to amend last year's contract, and asked whether the dollar amounts of this contract were included as part of that previous conversation. Utah County Deputy Attorney Paul Jones answered in the affirmative, stating a couple of hundred dollars were added to 2015 and subtracted from 2016 to balance the amounts. Commissioner Ellertson also asked whether the county should consider updating the miniscule scholarship amounts, and Commissioner Graves noted the award would only cover one term at any credible institution. Commissioner Lee said he agrees that possible adjustments are needed at budget time. Commissioner Lee also mentioned he has not heard from the group whether they perceive the numbers as being low, and Commissioners Ellertson and Graves both stated it is low for current college tuitions.

Commissioner Lee pointed out that an attendant in one region can win in the next region. Commissioner Ellertson asked when the contract changes should be applied, and Commissioner Lee suggested waiting until next year as part of the regular budget process. Commissioner Graves mentioned TRCC funds, and Commissioner Lee wondered aloud how often monies are not claimed. Commissioner Graves pointed out that they may not be claiming the funds because they are so minor, mentioning the website <https://mycash.utah.gov> is littered with enough minor amounts to total hundreds of millions of dollars.

Commissioner Lee made the motion to approve the agreement with Tiffani Miller for the Miss Utah County Pageant as outlined in Regular Agenda Item No. 12. The motion was seconded by Commissioner Graves and carried with the following vote:

**AYE: Larry A. Ellertson
William C. Lee
Greg Graves**
NAY: None

AGREEMENT NO. 2016-394

13. APPROVE AND AUTHORIZE THE COMMISSION CHAIR TO SIGN AN AMENDMENT TO AGREEMENT NO. 2016-179 WITH AMERICA'S FREEDOM FESTIVAL, INC. (Continued from the May 24, 2016 Commission meeting)
(Track A, 1:27:02)

Commissioner Ellertson mentioned reading a letter from the Fire Chief indicating approval of fire access, but he did not recall reading about approval from the city to use their street. Utah County Civil Division Chief Deputy Attorney David Shawcroft clarified the county is not approving use of the street, but only modifying the agreement to prohibit the street being closed.

Commissioner Lee made the motion to approve the amendment to Agreement No. 2016-179 with America's Freedom Festival, Inc. as identified in Regular Agenda Item No. 13. The motion was seconded by Commissioner Graves and carried with the following vote:

**AYE: Larry A. Ellertson
William C. Lee
Greg Graves**
NAY: None

AGREEMENT NO. 2016-395

At this point, the commissioners determined which closed meetings would be necessary to set and which could be stricken from the Regular Agenda. Commissioner Ellertson briefly excused himself from the room, and Robert's Rules of Order were waived for the purpose of making motions.
(Track A, 1:28:58)

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16. APPROVE AND SET A DATE, TIME AND LOCATION FOR A CLOSED MEETING TO DISCUSS THE CHARACTER, PROFESSIONAL COMPETENCE, OR PHYSICAL OR MENTAL HEALTH OF AN INDIVIDUAL OR INDIVIDUALS (*Suggested for today's date, at this location, following the completion of the Regular Agenda and Work Session Agenda items*) (*Announce the vote of each Commissioner*)

STRICKEN

17. APPROVE AND SET A DATE, TIME AND LOCATION FOR A CLOSED MEETING FOR A STRATEGY SESSION TO DISCUSS PENDING OR REASONABLY IMMINENT LITIGATION (*Suggested for today's date, at this location, following the completion of the Regular Agenda and Work Session Agenda items*) (*Announce the vote of each Commissioner*)

STRICKEN

Commissioner Graves made the motion to strike Regular Agenda Item Nos. 16 and 17 to set dates, times, and locations for closed meetings for strategy sessions to discuss the character, professional competence, or physical or mental health of an individual or individuals; and to discuss pending or reasonably imminent litigation. The motion was seconded by Commissioner Lee and carried with the following vote:

AYE: William C. Lee

Greg Graves

NAY: None

14. APPROVE AND SET A DATE, TIME AND LOCATION FOR A CLOSED MEETING FOR A STRATEGY SESSION TO DISCUSS THE PURCHASE, EXCHANGE, OR LEASE OF REAL PROPERTY, WATER RIGHTS, OR WATER SHARES (*Suggested for today's date, at this location, following the completion of the Regular Agenda and Work Session Agenda items*) (*Announce the vote of each Commissioner*)

Commissioner Graves made the motion to set a date, time, and location for a closed meeting for a strategy session to discuss the purchase, exchange, or lease of real property, water rights, or water shares previously publicly noticed for sale for today, May 31, 2016, at 2:00 PM in Room 2300 of the County Administration Building. The motion was seconded by Commissioner Lee and carried with the following vote:

AYE: William C. Lee

Greg Graves

NAY: None

SET

15. APPROVE AND SET A DATE, TIME AND LOCATION FOR A CLOSED MEETING FOR A STRATEGY SESSION TO DISCUSS THE SALE OF REAL PROPERTY, WATER RIGHTS, OR WATER SHARES, PREVIOUSLY PUBLICLY NOTICED FOR SALE (*Suggested for today's date, at this location, following the completion of the Regular Agenda and Work Session Agenda items*) (*Announce the vote of each Commissioner*)

Commissioner Graves made the motion to set a date, time, and location for a closed meeting for a strategy session to discuss the sale of real property, water rights, or water shares previously publicly noticed for sale to follow the Regular Agenda items today in Room 1400 of the County Administration Building. The motion was seconded by Commissioner Lee and carried with the following vote:

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**AYE: William C. Lee
Greg Graves**
NAY: None

SET

WORK SESSION

NO WORK SESSION ITEMS WERE SUBMITTED

PUBLIC COMMENTS

There were no public comments and the meeting recessed at 10:40 A.M. to go into closed meetings. Commissioner Ellertson returned to the bench at this time, and the public meeting reconvened at 11:04 A.M. in order to recess a second time and set an additional closed meeting for later in the day at 2:00 P.M. Once that final closed meeting concluded, the public meeting reconvened at 2:19 P.M.

(Track B, 00:01)

Commissioner Graves made the motion to adjourn the May 31, 2016 meeting of the Utah County Board of Commissioners. The motion was seconded by Commissioner Lee and carried with the following vote:

**AYE: Larry A. Ellertson
William C. Lee
Greg Graves**
NAY: None

There being no further business nor public comment, the meeting adjourned at 2:19 P.M. The minutes of the May 31, 2016 Commission meeting were approved as transcribed on July 5, 2016.

LARRY A. ELLERTSON, Commission Chair

ATTEST:

BRYAN E. THOMPSON
Utah County Clerk/Auditor